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 10 Matthew K. Potts  
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14 **UNITED STATES DISTRICT COURT**  
 15 **FOR THE**  
 16 **NORTHERN DISTRICT OF CALIFORNIA**

21 MATTHEW K. POTTS, an individual,  
 22 Plaintiff,  
 23 v.

25 VF OUTDOOR, INC., a Delaware  
 26 Corporation, and DOES I through X,  
 27 Defendant(s).

CASE NO. C07 05213 BZ

**EX PARTE APPLICATION TO  
 EXTEND DEADLINES SET  
 FORTH IN THE “ORDER  
 SETTING INITIAL CASE  
 MANAGEMENT CONFERENCE  
 AND ADR DEADLINES,” (As  
 Once Previously Extended),  
 and to  
 EXTEND DEADLINE TO  
 ACCEPT OR REJECT  
 MAGISTRATE JUDGE**

30 Plaintiff herein, Matthew K. Potts, by and through his counsel, hereby  
 31 applies ex parte to this Court for an order specifying that the dates relating to the  
 32 initial case management conference and ADR deadlines set by the court’s  
 33 “ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE AND  
 34 ADR DEADLINES,” and related dates, as once modified, be reset as requested  
 35 below, for the reasons and facts set forth herein.

**EX PARTE APPLICATION  
 re RESET CMC et al. DATES**

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2     1. Plaintiff's Complaint was filed on October 11, 2007. At that time, the Court issued  
3 its "ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE AND ADR  
4 DEADLINES" (the "Order") setting dates for: (a) the filing of Joint ADR Certification  
5 with Stipulation to ADR Process or Notice of Need for ADR Phone conference (Feb. 11,  
6 2008), (b) the filing of Rule 26(f) Report, and completion of initial disclosures or  
7 statement of objection in Rule 26(f) Report and filing of Case Management Statement  
8 (Feb. 25, 2008); and (c) Initial Case Management Conference (Mar. 3, 2008).

9         Additionally, the parties were given until the date of the filing of the Initial Case  
10 Management Conference Statement to accept or decline the appointment of the magistrate  
11 judge initially assigned to the case.

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13     2. On February 25, 2008, Plaintiff Potts requested that the original dates be reset to  
14 allow the continuation of settlement discussions between the parties, which discussions  
15 have been ongoing since that date until present. On February 26, 2008, the court granted  
16 that order, resetting the Case Management Conference to June 23, 2008. On its own  
17 motion, the court later continued the date of the Case Management Conference to July 7, 2008.

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19     3. Plaintiff has not yet attempted to serve the Complaint and Summons on Plaintiff  
20 VF Outdoors for the reason that plaintiff and defendant have been engaged in discussions  
21 of a proposal that may lead to a resolution of the dispute underlying this action, without  
22 necessity for further proceedings in court. In the interest of furthering these discussions  
23 without adding the complication and acrimony of litigation, and to avoid incurring further  
24 costs and attorney fees, plaintiff has refrained from advancing the litigation forward until  
25 these discussions have concluded in one way or another. See Declaration of Michael L.  
26 Harrison submitted herewith.

1       3. Plaintiff did not attempt to obtain a stipulation regarding the present Ex Parte  
2 Application because plaintiff has not yet served defendant and therefore defendant has not  
3 yet appeared in this action.

5 WHEREFORE, Plaintiff requests that this Court order:

6       1. That the Initial Case Management Conference now set for July 7, 2008 be continued  
7           by the Court for a minimum of 90 days from the presently scheduled date, and that all  
8           deadlines set forth therein in the INITIAL CASE MANAGEMENT SETTING (as  
9           previously extended), be extended by corresponding amounts;

10       2. That the deadline to either accept or decline the appointment of a magistrate judge for  
11       all purposes be extended for a minimum of 90 days from the present deadline.

13 || Respectfully submitted,

15 | /s/

16 Michael L. Harrison  
17 HARRISON & KAYLOR  
18 Attorney for Plaintiff Matthew K. Potts

July 2, 2008

**EX PARTE APPLICATION  
re RESET CMC et al. DATES**